IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1558 OF 1997

Rajendra Govind Gaikwad .. Petitioner
V/s
The State of Maharashtra & Anr. .. Respondents

Mr.Vishwas Deokar with Mr.L.N.Bedekar for the Petitioner.

Mr.V.S.Gokhale, AGP for the Respondents.

CORAM: DR.S.RADHAKRISHNAN &
R.S.MOHITE, JJ.

DATE : 08.12.2005.

P.C.:

1. Heard the learned Counsel for the Petitioner and the learned AGP for the Respondents. By this Petition, the Petitioner is challenging the order dated 2.12.1996 passed by the Respondent No.2- Education Officer, Secondary, (Z.P.), Solapur, whereby the Education Officer has held that the Petitioner does not come within the "C" category as he has not acquired the requisite qualification.

2. The brief facts are that the Petitioner was appointed as an Assistant Teacher in the Vidya Mandir High School, Vairag, Tal.Barshi in the year 1961. In the year 1961 the Petitioner appears to have acquired DTC qualification. Thereafter on 5th June, 1963 the Petitioner was made permanent in the said School as an Assistant Teacher. In the year 1965 the Petitioner acquired STC qualification. Thereafter in the year 1966 the Petitioner appears to have acquired the qualification as "Drawing Master" which can be acquired only after three years after obtaining the DTC

qualification. In the year 1967 the Petitioner acquired the qualification as "Art Master". It is the case of the Petitioner that the Petitioner was also included in "C" category in the year 1967. It appears that in the year 1989, the Respondent No.2-Education Officer took a decision that the Petitioner should be treated in "C" category only after 10 years of experience from 1967, that means only from 1977, to which the Petitioner had taken an objection. The said objection of the Petitioner was not considered by the Respondent No.2-Education Officer. Subsequently, after retirement, the Petitioner made a representation in the year 1996 to the Respondent No.2-Education Officer. It appears that the Respondent No.2-Education Officer by his letter dated 19th October, 1996 considered the Petitioner’s claim and directed that the Petitioner should be treated as a senior most teacher in "C" category from the year 1967. However, thereafter the Respondent No.2-Education Officer realised his mistake and on 2nd December, 1996 the Respondent No.2-Education passed an order holding thereby that the Petitioner cannot come under "C" category as he has not acquired the required qualification. It was held by the Education Officer that The Petitioner will come in "C" category only after the Petitioner having a Degree of a recognised University in B.F.A.plus A.M.Certificate or A.M.Diploma or Diploma in Art Education. As such, it was held by the Education Officer that the Petitioner does not come in "C" category.

3. We have perused the Schedule "F" of the Maharashtra Employees of Private Schools Rules, 1981 wherein Category "C" reads as under:-

Category C: Holders of -

M.A. /M.Sc./M.Com., B.T./B.Ed., or its equivalent; or
B.A.B.T./B.Sc./B.Com.,B.T./B.Ed., or its equivalent; or
B.A/B.Sc./B.Com.Dip.T. (old two years course); or
B.A./B.Sc./B.Com.,S.T.C./Dip.Ed./Dip.T.(one year course) with 10 years post S.T.C.etc.service.

[B.A. or its equivalent plus Senior Hindi Shikshak Sanad with five years service: or Junior Hindi Shikshak with ten yers service after obtaining both academic and training qualifications.]

4. From the above it is clear that, to be in "C" category, the person has to have a Degree. Without such Degree, the person cannot be included in "C" category. In the impugned order the Education Officer, Secondary, Zilla Parishad, Solapur has categorically mentioned that in the light of the Government Resolution dated 25th November, 1988 the Petitioner ought to have a Degree of a recognised University in B.F.A. plus A.M.Certificate or A.M.Diploma or Diploma in Art Education. Admittedly in the instant case the Petitioner does not have any Degree whatsoever. Under these circumstances, no illegality can be found in the impugned order. Petition is totally devoid of merits. Hence, Petition stands dismissed.

(DR.S.RADHAKRISHNAN, J.)

(R.S.MOHITE, J.)